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THE RIGHT OF MINORITY-REFUGEES TO PRESERVE THEIR CULTURAL IDENTITY: AN INTERSECTIONAL ANALYSIS

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ABSTRACT

International human rights law (IHRL) has been accused of locking individuals into rigid categories on the basis of their presumed primary identity, and of predetermining their needs on the basis of a standardised experience. IHRL, therefore, fails to appreciate how the location of individuals at the intersection of different social categories makes their experience of oppression distinct from the experience of those seen as typifying each category. Specifically, while UN treaty bodies have sought to address forms of oppression resulting from the intersection of gender, race and/or disability through their practice, they rarely recognise the experience of groups at the intersection of other social categories.

This article uses the lens of intersectionality to analyse the practice of UN treaty bodies in relation to the intersection of minority and refugee status. We argue that while minority-refugees have fled persecution connected to their minority status, UN treaty

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bodies have failed to appreciate the impact of their location at the intersection of persons belonging to minorities and refugees in host States on their right to preserve their cultural identity. By failing to address the distinct experience of minority-refugees, UN treaty bodies risk participating in their oppression. Further, we reveal that current practice not only has potentially negative consequences for minority-refugees—as both individuals and groups—and for the host society but may even undermine the ability of IHRL to achieve its overarching objectives.

Consequently, UN treaty bodies must recognise how the location of individuals at the intersection of social categories beyond race, gender and/or disability results in a distinct experience of oppression and seek to address this in practice.

1. INTRODUCTION

International human rights law (IHRL) should, in theory, be ‘indivisible, interdependent and interrelated’,¹ insofar as the enjoyment of one set of rights is recognised to be necessary for the effective enjoyment of all others.² However, critical theorists argue that, in practice, IHRL fails to achieve this as it locks individuals into rigid categories—as, for example, refugees or women—on the basis of their presumed primary identity,³ and predetermines their needs on the basis of a standardised experience.⁴ Thus, IHRL fails to appreciate how the location of individuals at the intersection of different social categories,

¹ UNGA, ‘Vienna Declaration and Programme of Action’ UN Doc A/CONF.157/24 (Part I) [5].

² James W. Nickel, ‘Rethinking Indivisibility: Towards a Theory of Supporting Relations between Human Rights’ (2008) 30 Human Rights Quarterly 984.

³ Roger Zetter, ‘Labelling Refugees: Forming and Transforming a Bureaucratic Identity’ (1991) 4 Journal of Refugee Studies 40; Wendy Brown, ‘Suffering the Paradoxes of Rights’ in Wendy Brown and Janet Halley (eds), *Left Legalism/Left Critique* (Duke University Press 2002).

⁴ Zetter (n 3) 44; Wendy Brown, “‘The Most We Can Hope For...’: Human Rights and the Politics of Fatalism’ (2004) 103 The South Atlantic Quarterly 451, 460.

experience different forms of oppression as compared to those seen as typifying each category.⁵ In so doing, IHRL further marginalises the experience of these individuals and, even risks contributing to their oppression,⁶ when, on the contrary, it is supposed to recognise and combat such oppression.

Intersectionality theory informs this article's analysis of UN treaty bodies' current practice in relation to minority-refugees. Intersectionality as a theory challenges the tendency to capture individuals' experiences based on a single classification, for example, gender or ethnicity.⁷ Instead, it demonstrates how 'the structural and dynamic consequences of the interaction between two or more axes of subordination',⁸ result in a qualitatively different experience of oppression.⁹ Intersectionality is most commonly used to highlight forms of oppression resulting from the intersection of gender, race and/or class.¹⁰ This has, notably, influenced the development of IHRL,¹¹ and led to the recognition of the qualitatively different experience of individuals at this intersection by UN treaty bodies,¹² albeit inconsistently.¹³ Further, the interaction between disability and

⁵ Johanna E. Bond, 'International Intersectionality: A Theoretical and Pragmatic Exploration of Women's International Human Rights Violations' (2003) 52 *Emory Law Journal* 71, 80. See generally, Kimberlé Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color' (1991) 43 *Stanford Law Review* 1241.

⁶ Crenshaw (n 5) 1245; Patrick R. Grzanka, 'Systems of Oppression' in Patrick R. Grzanka (ed) *Intersectionality: A Foundations and Frontiers Reader* (1st edn, Routledge 2018) 2.

⁷ Crenshaw (n 5) 1242-44.

⁸ Kimberlé Williams Crenshaw, 'The Structural and Political Dimensions of Intersectional Oppression' in Grzanka (n 6) 17.

⁹ Crenshaw (n 5) 1245.

¹⁰ See, for example, Kimberlé Crenshaw, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' [1989] *University of Chicago Legal Forum* 139; Crenshaw (n 5).

¹¹ Patricia Hill Collins and Sirma Bilge, *Intersectionality* (Polity Press 2016) 70-76.

¹² Shreya Atrey, *Intersectional Discrimination* (OUP 2019) 18-19; Pok Yin S. Chow, 'Has Intersectionality Reached its Limits? Intersectionality in the UN Human Rights Treaty Body Practice and the Issue of Ambivalence' (2016) 16 *Human Rights Law Review* 453, 454.

¹³ Shreya Atrey, 'Fifty Years On: The Curious Case of Intersectional Discrimination in the ICCPR' (2017) 35 *Nordic Journal of Human Rights* 220.

other social categories has been recognised under the UN Convention on the Rights of Persons with Disabilities.¹⁴ However, UN treaty bodies rarely recognise the experience of groups at the intersection of other social categories. Thus, this article uses the lens of intersectionality to analyse the practice of UN treaty bodies in relation to the hitherto unexplored intersection of minority and refugee status. In so doing, it reveals that UN treaty bodies must expand their practice beyond the traditional intersection of race, gender and/or disability. Failure to do so has potentially negative implications that extend further than impacted individuals and may even undermine the objectives of IHRL.

We understand minority-refugees to be individuals recognised as belonging to ethnic, religious or linguistic minorities in their home State in accordance with Article 27 of the International Covenant on Civil and Political Rights (ICCPR),¹⁵ who do not have a kin-State and have sought refuge as a result of persecution connected to their minority identity.¹⁶ Their distinct experience is a direct result of their classification as persons belonging to minorities *and* as refugees.

For illustrative purposes, this article draws on the experiences of Dom, Kurdish and Yazidi minority-refugees, who have fled persecution in Iraq and the Syrian Arab Republic since 2014, as they have been subjected to both recent—during the ongoing humanitarian crises—and historical persecution on the basis of their minority identity. However, the conclusions drawn may be equally applicable to other groups located at the minority-

¹⁴ United Nations Convention on the Rights of Persons with Disabilities (opened for signature 30 March 2007, entered into force 3 May 2008) 2515 UNTS 3. See, Atrey (n 12) 18.

¹⁵ International Covenant on Civil and Political Rights (adopted on 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).

¹⁶ As we are concerned with the practice of UN treaty bodies, we do not consider the formal recognition of such groups as ‘refugees’ in their host State, in accordance with Article 1(A)(2) of the Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (UN Refugee Convention); Protocol Relating to the Status of Refugees (adopted 31 January 1967, entered into force 4 October 1967) 606 UNTS 267.

refugee intersection. While individual minority-refugees may also belong to other social categories, such as gender, and, as a result, experience oppression differently to other minority-refugees, this falls outside the scope of this article.

This article draws on scholarship from the fields of social psychology and acculturation studies, in order to provide unique insights in relation to the impact of intersectionality on minority-refugees' experience of oppression in host States and the implications of current UN treaty body practice. The majority of this literature pertains to single-identity categories such as immigrants, refugees and ethno-cultural minorities, rather than intersectional categories such as minority-refugees.¹⁷ Nonetheless, this literature facilitates the identification of a range of phenomena, relevant to the experience of minority-refugees in host States. Literature that focuses specifically on minority-refugees, demonstrates how their distinct experience exacerbates these phenomena and results in a qualitatively different experiences in host States as compared to both autochthonous minorities and other refugees.¹⁸

We argue for the explicit recognition of the distinct experience and, therefore, needs of minority-refugees by UN treaty bodies. Currently, UN treaty bodies neglect the right of minority-refugees to preserve their cultural identity (hereinafter 'right to cultural

¹⁷ See, for example, Jan Pieter van Oudenhoven, Colleen Ward and Anne-Marie Masgoret, 'Patterns of Relations between Immigrants and Host Societies' (2006) 30 *International Journal of Intercultural Relations* 637; Jenny Phillimore, 'Refugees, Acculturation Strategies, Stress and Integration' (2011) 40 *Journal of Social Policy* 575; Michaela Hynie, 'Refugee Integration: Research and Policy' (2018) 24 *Peace and Conflict: Journal of Peace Psychology* 265.

¹⁸ See, for example, Marina Taloyan and others, 'Acculturation Strategies in Migration Stress Among Kurdish Men in Sweden: A Narrative Approach' (2011) 5 *American Journal of Men's Health* 198; Nabi Fatahi and Øyvind Økland, 'Difficulties and Possibilities in Kurdish Refugees' Social Relationship and its Impact on their Psychosocial Well-Being' (2015) 2 *Journal of Family Medicine & Community Health* 1; Sami Richa and others, 'Trauma Exposure and the PTSD prevalence among Yazidi, Christian and Muslim Asylum Seekers and Refugees Displaced to Iraqi Kurdistan' (2020) 15 *Plos One* 1, 8.

identity’) because they fail to appreciate the significance of minority-refugees’ location at the intersection of persons belonging to minorities and refugees.¹⁹ This has potentially negative consequences, for minority-refugees—as both individuals and groups—and for the host society. The current state of affairs is not only counterintuitive, insofar as minority-refugees have fled persecution in their home State in order to be able to maintain their cultural identity but also has the potential to undermine the objectives of IHRL and International Minority Rights Law (IMRL), namely: the protection of human dignity; the preservation and continued existence of minority identities; and social stability and cohesion.

Thus, section two, informed by structural intersectionality, reveals how minority-refugees’ experience of oppression in the host State is qualitatively different to that of individuals classified as either persons belonging to minorities or refugees. Section three turns to political intersectionality and explores the failure to recognise and address minority-refugees’ experience of intersectional oppression by UN treaty bodies. Finally, section four analyses the implications of the current practice of UN treaty bodies for minority-refugees—as both individuals and groups—and for the host society. This allows us to identify key recommendations that would allow UN treaty bodies to respond to the intersectional experience of minority-refugees in the future.

2. THE INTERSECTIONAL EXPERIENCE OF MINORITY-REFUGEES IN HOST STATES

This section draws on structural intersectionality to demonstrate that whilst minority-refugees suffer similar patterns of oppression associated with other refugees and persons

¹⁹ This article focuses specifically on the practice of UN treaty bodies and, as a result, does not consider the right of minority-refugees to cultural identity under other frameworks.

belonging to minorities, they also experience forms of oppression that are distinct and intersectional in nature. Crenshaw uses structural intersectionality to refer to ‘the ways in which the location of women of color at the intersection of race and gender makes our actual experience of domestic violence, rape, and remedial reform qualitatively different than that of white women’.²⁰ Similarly, this section argues that the distinct oppression that minority-refugees experience in host States results from the way the disadvantages suffered by refugees intersects with their experience as persons belonging to minorities. Most notably, minority-refugees’ location at the intersection of these two categories impacts their ability to maintain their cultural identity in host States.

Minority-refugees —specifically, Dom, Kurdish and Yazidi refugees who have fled from Syria and Iraq since 2014— were persons belonging to minorities prior to becoming refugees. As a result of their minority-status, the minority-refugees considered here have been widely acknowledged to have suffered both historical and more recent persecution in their home State. The Kurdish minority in the Syrian Arab Republic has been subject to historical discrimination and forced assimilation, including: the deprivation of citizenship;²¹ and restrictions on the use of their mother tongue²² and the celebration of cultural holidays.²³ Similarly, the ethnic identity and lifestyle of Dom people in Syria has led them to experience discrimination and marginalisation because they are viewed as having a lower social and moral status.²⁴ Yazidis in Iraq have suffered persecution

²⁰ Crenshaw (n 5) 1245.

²¹ Human Rights Watch, ‘Group Denial Repression of Kurdish Political and Cultural Rights in Syria’ (Human Rights Watch, November 2009) 11, 22 <www.hrw.org/sites/default/files/reports/syria1109web_0.pdf>.

²² *ibid* 11, 22.

²³ *ibid*.

²⁴ Yesim Yaprak Yildiz, ‘Nowhere to Turn, The Situation of Dom Refugees from Syria in Turkey’ (European Roma Rights Centre, September 2015) 9, 16 <https://research.gold.ac.uk/id/eprint/27569/1/Nowhere-to-Turn_Syrian%20Dom%20Refugees.pdf>.

throughout their history owing to their beliefs.²⁵ More recently, they have been victims of genocidal attacks, including killings, forced conversion from Yazidism to Islam, and the removal of Yazidi children from their families and placement of these children with members of the ‘Islamic State of Iraq and the Levant’ (ISIS).²⁶

The systematic persecution and denial of the human rights of these groups in their home States has subsequently led minority-refugees to seek refuge. There are an estimated 800,000-1,500,000 dispersed Yazidis worldwide.²⁷ As a result of the humanitarian crisis starting in 2014, approximately 60 percent of the Yazidi population from Iraq is currently displaced.²⁸ Similarly, of 250,000-300,000 Doms from the Syrian Arab Republic, approximately 150,000 are now dispersed amongst Turkey, Jordan and Lebanon as refugees.²⁹ Within Europe, significant numbers of minority-refugees have been granted refugee status in Germany and Greece.³⁰

²⁵ Human Rights Watch, *On Vulnerable Ground—Violence Against Minority Communities in Nineveh Province’s Disputed Territories* (Human Rights Watch, 2009) <www.hrw.org/sites/default/files/reports/iraql109web.pdf>.

²⁶ UN Human Rights Council, ‘They Came to Destroy: ISIS Crimes Against Yazidis’ (15 June 2016) UN Doc A/HRC/32/CRP.2.

²⁷ Kristine Kolstad, ‘5 Things You Should Know about the Yezidis’ (Norwegian Refugee Council, 10 December 2018) <www.nrc.no/news/2018/december/five-things-you-should-know-about-the-yazidis/>.

²⁸ Minority Rights Group, ‘Iraq Yazidis’ <minorityrights.org/minorities/yezidis/> accessed 23 May 2020.

²⁹ Kirkayak Kultur Dom Research Center, ‘The Dom, the “Other” Asylum Seekers from Syria Discrimination, Isolation and Social Exclusion: Syrian Dom Asylum Seekers in the Crossfire’ (Kirkayak Kultur) 19 <www.stgm.org.tr/sites/default/files/2020-09/the-dom-the-other-asylum-seekers-from-syria-discrimination-isolation-and-social-exclusion-syrian-dom-asylum-seekers-in-the-crossfire.pdf>.

³⁰ Benjamin Bathke, ‘Yazidi refugees in Germany suffer severely from 2014 genocide, study says’ (InfoMigrants website, 31 July 2019) <www.infomigrants.net/en/post/18508/yazidi-refugees-in-germany-suffer-severely-from-2014-genocide-study-says>; Olga Bronshteyn and Todd Finklestone, ‘Yazidi Refugees in Greece-Unaccompanied Minors Brief’ (One Track International, 25 October 2018) <onetrackinternational.org/yazidi-refugees-in-greece-unaccompanied-minors-brief/>; InfoMigrants, ‘Kurdish refugees to lose rights for staying away from Moria’ (Info Migrants, 05 June 2018) <www.infomigrants.net/en/post/9688/kurdish-refugees-to-lose-rights-for-staying-away-from-moria>.

Minority-refugees are disadvantaged by the intersection between the systems of oppression that minorities and refugees face in host States. Many refugees experience cultural bereavement as a result of the loss of familiar cultural practices, languages, religious customs, and difficulties associated with adjustment to a new culture in host States.³¹ Whilst this cultural bereavement, for refugees, is largely the consequence of physical displacement, for minority-refugees this is compounded by the destruction of their cultural sites in their home States. It has been reported that many sacred shrines and temples that play a central role in the religious identity of the Yazidi community in Iraq, have been damaged and destroyed by the members of ISIS.³² The specific cultural bereavement experienced by minority-refugees, due to the combination of forced displacement with the destruction of their culture, also makes their experience of post migration stress in host States qualitatively different from other refugees. They suffer from guilty feelings related to cultural loss, which results in a higher level of emotional distress and disruption of their daily life in host States, as compared to other refugees.³³ For example, both Yazidi and Kurdish refugees have expressed feelings of guilt as a consequence of losing their identity and their separation from their territories.³⁴ Kurdish refugees have also found that the ability to contribute to the maintenance of their own culture, both in their home State and the host State, has helped them to cope with this trauma.³⁵ These examples illustrate that minority-refugees experience of cultural bereavement is qualitatively different to that of other refugees.

³¹ Hyojin Im and Jonah Neff, 'Spiral Loss of Culture: Cultural Trauma and Bereavement of Bhutanese Refugee Elders' (2020) *Journal of Immigrant & Refugee Studies* 1, 3.

³² Benjamin Isakhan and Sofya Shahab, 'The Islamic State's Destruction of Yezidi Heritage: Responses, Resilience and Reconstruction After Genocide' (2020) 20 *Journal of Social Archaeology* 3, 12.

³³ Richa and others (n 18) 8; Taloyan and others (n 18) 202.

³⁴ *ibid.*

³⁵ Taloyan and others (n 18) 202.

The victimisation encountered by minority-refugees in host States further demonstrates the intersectional nature of the oppression that they face. Whilst refugees who belonged to the majority in their home State may be subject to harassment in the host society,³⁶ minority-refugees have been victimised by other refugees as well as the host society. For example, Yazidi refugees have been attacked, and their tents and belongings have been destroyed by other refugees in the Skaramagas refugee camp in Greece.³⁷ Similarly, due to their minority status combined with their refugee status, Dom refugees in Turkey have been targets of harassment, discrimination and exclusion both inside and outside of the refugee camps.³⁸ As a result, some prefer to settle with autochthonous Doms/Romas in their traditional areas.³⁹ However, their tents are frequently raided by Turkish government officers.⁴⁰

This demonstrates that the victimisation of minority-refugees is dynamic; they are targeted because they are refugees, whilst their experience as Yazidis or Doms renders them acutely vulnerable to religious and ethnic prejudice. This, potentially, could lead

³⁶ Veronique Barbelet and Caitlin Wake, 'The Lives and Livelihoods of Syrian Refugees in Turkey and Jordan' (Humanitarian Policy Group, February 2017) 3, 13 <<https://cdn.odi.org/media/documents/11344.pdf>>.

³⁷ Canadian Standing Committee on Citizenship and Immigration, 'Distress Call: How Canada's Immigration Program Can Respond to Reach the Displaced and Most Vulnerable' (42nd Parliament, 1st Session, October 2016) 53.

³⁸ Development Workshop, 'Dom Migrants from Syria Living at the Bottom on the Road amid Poverty and Discrimination' (The Asylum Information Database website, November 2016) <www.asylumineurope.org/sites/default/files/resources/2016.11developmentworkshopreportdomlivingatthebottom.pdf>; Kate Maltby, 'Bordering Isolation: Attitudes to Minorities in Turkey' (2014) 43 *Index on Censorship* 62, 62.

³⁹ Development Workshop (n 38) 71.

⁴⁰ Yildiz (n 24) 10.

them to hide their cultural identities, further hindering their ability to preserve them in host States.⁴¹

Minority-refugees' preservation of their cultural identity may also be disrupted by assimilation policies. Their ability to maintain their cultural identities has already been obstructed in their home States by assimilation policies that aim to destroy these identities or have a comparable destructive effect. This is compounded when host States adopt assimilation policies. For example, Turkey, a major minority-refugee receiving State, has sought to assimilate the autochthonous Kurdish minority by oppressing the Kurdish language through the prohibition of its use in public places, education, press and broadcasting.⁴² They also gave Kurdish villages Turkish names.⁴³ Similarly, the autochthonous Dom minority in Jordan and Lebanon has been subjected to forced assimilation policies.⁴⁴ Further, host States have adopted dispersal policies that purposefully separate culturally similar refugees in the name of 'integration'.⁴⁵ By reducing the opportunities for members of refugee groups to interact with one another,

⁴¹ Sophie Chamas, 'Among Syrian Refugees, hidden Dom suffer war and rejection' (Thomson Reuters Foundation News, 30 October 2014) <<https://news.trust.org/item/20141030170457-sm9xp>>.

⁴² Tove Skutnabb-Kangas and Sertaç Bucak, 'Killing a Mother Tongue-How Kurds are Deprived of Linguistic Human Rights' in Tove Skutnabb-Kangas and Robert Phillipson (eds), *Linguistic Human Rights: Overcoming Linguistic Discrimination* (Mouton de Gruyter 1995) 347-71.

⁴³ Welat Zeydanlıoğlu, 'Turkey's Kurdish Language Policy' (2012) *International Journal of the Sociology of Language* 99, 109.

⁴⁴ HRC, 'Concluding observations on the initial report of Turkey' (13 November 2012) UN Doc CCPR/C/TUR/CO/1 [9]; CERD, 'Concluding observations on the combined eighteenth to twentieth periodic reports of Jordan' (26 December 2017) UN Doc CERD/C/JOR/CO/18-20 [24]-[25]; CESCR, 'Concluding observations on the second periodic report of Lebanon' (24 October 2016) UN Doc E/C.12/LBN/CO/2 [64].

⁴⁵ OECD, 'Making Integration Work: Refugees and Others in Need of Protection' (OECD, 2016) 22-30 <www.oecd.org/migration/making-integration-work-humanitarian-migrants-9789264251236-en.htm>; European Commission, 'Moving on? Dispersal Policy, Onward Migration and Integration of Refugees in the UK' (European Commission, 31 December 2015) <ec.europa.eu/migrant-integration/librarydoc/moving-on-dispersal-policy-onward-migration-and-integration-of-refugees-in-the-uk>.

dispersal policies weaken their cultural bond and, thereby, hamper the maintenance of their cultural identity.⁴⁶ Assimilation policies are not limited to minority-refugees, however, due to their ‘co-existing and co-constitutive’⁴⁷ identities, the effect of these policies on minority-refugees’ ability to maintain their cultural identity is compounded. Thus, their experience is qualitatively different to that of both minorities and refugees who belonged to the majority in their home State. Given that minority-refugees, particularly Dom and Yazidis, are already small in number and currently displaced from their traditional areas, these policies not only make the preservation of cultural identity particularly difficult on an individual level, but also threaten the survival of the group.

Therefore, the patterns of oppression that minority-refugees suffer as a result of belonging to refugee groups in host States cannot be defined in isolation from the oppression they suffered as a result of belonging to minorities in their home States. Their oppression as minority-refugees is both distinct and produced as a result of the overlap between their different identity categories.

3. MINORITY-REFUGEES AND INTERSECTIONALITY UNDER INTERNATIONAL HUMAN RIGHTS LAW

As identified, in the previous section, the structural intersectional oppression faced by minority-refugees on the basis of their ‘overlapping identity categories’⁴⁸ specifically impairs their ability to preserve their cultural identity, in a way that is both similar to and different from autochthonous minorities and other refugees in the host State. It is vital

⁴⁶ Phillimore (n 17) 589.

⁴⁷ Atrey (n 12) 43.

⁴⁸ Sumi Cho, Kimberlé Williams Crenshaw and Leslie McCall, ‘Intersectionality: Theorizing Power, Empowering Theory’ (2013) 38 *Signs* 785, 797.

that the IHRL framework recognises the ways in which minority-refugees' identities interact and result in a distinct experience in order to prevent the marginalisation of these groups. This section explores the extent to which UN human rights treaties (IHRL treaties), and their treaty bodies have recognised the needs of minority-refugees as persons belonging to minorities, refugees and as persons belonging to both of these categories simultaneously, specifically in relation to the right to cultural identity.

It is argued that the recognition of the intersectional oppression experienced by minority-refugees is not precluded by the structure of IHRL treaties. Instead, political factors converge in the practice of UN treaty bodies and lead this intersectional oppression to be overlooked. In so doing, this section draws on the Concluding Observations of UN treaty bodies in relation to States that received significant numbers of minority-refugees following the 2014 humanitarian crises, namely, Germany, Greece, Jordan, Lebanon and Turkey. To date, UN treaty bodies have not been given the opportunity to consider communications on this issue.

Within intersectionality literature, the IHRL framework has been critiqued for contributing 'to a fractured understanding of the nature of discrimination' because it categorises groups along 'a single-axis of social division',⁴⁹ such as sexism or racism, through the development of targeted treaties such as CEDAW and ICERD.⁵⁰ Thus, Skeet observes '[t]here is a tendency [...] to view a classic recipient in the terms of the most privileged members of these groups and to see them as operating separately rather than

⁴⁹ Collins and Bilge (n 11) 2.

⁵⁰ Bond (n 5) 93. See also, Aisha Nicole Davis, 'Intersectionality and International Law: Recognizing Complex Identities on the Global Stage' (2015) 28 Harvard Human Rights Journal 206, 206.

being viewed as intertwined or complementary protections'.⁵¹ This structural issue precludes UN treaty bodies from fully addressing intersectionality. However, in direct contrast to the categories of gender and race, the IHRL treaty framework does not automatically categorise minority status and refugee status along a single-axis. This is because, no UN human rights treaties are dedicated exclusively to the rights of refugees nor to persons belonging to minorities.⁵² Notably, while the Convention Relating to the Status of Refugees (UN Refugee Convention) as amended by the 1967 Protocol Relating to the Status of Refugees extends basic rights to the category of refugees, this treaty does not fall within the UN human rights machinery and does not have a dedicated treaty body tasked with monitoring compliance.⁵³ Instead, under IHRL, rights violations suffered by both refugees and persons belonging to minorities are primarily addressed under the same three treaties, namely the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁵⁴ and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).⁵⁵ As a result, there are no structural impediments to the consideration of

⁵¹ Charlotte Helen Skeet, 'Intersectionality as Theory and Method: Human rights adjudication by the European Court of Human Rights' in Naomi Creutzfeldt, Mark Mason and Kirsten McConnachie (eds) *The Routledge Handbook of Socio-legal Theory and Method* (Routledge 2019) 278.

⁵² Nb. ICERD is sometimes argued to be a *de facto* minority rights instrument. This discussion falls outside the scope of this article. See further, David Keane and Joshua Castellino, 'Is the International Convention on the Elimination of All Forms of Racial Discrimination the De Facto Minority Rights Treaty?' in Carla Buckley, Alice Donald and Philip Leach (eds), *Towards Convergence in International Human Rights Law: Approaches of Regional and International Systems* (Brill 2016).

⁵³ While the UN High Commission for Refugees (UNHCR) supervises the implementation of the UN Refugee Convention, it does not have a transparent State reporting process and neither is it able to receive individual complaints of violations of the UN Refugee Convention. See, generally, Walter Kälin, 'Supervising the 1951 Convention on the Status of Refugees: Article 35 and Beyond' in Erika Feller, Volker Türk and Frances Nicholson, *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection* (CUP 2003).

⁵⁴ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR).

⁵⁵ International Convention on the Elimination of All Forms of Racial Discrimination (adopted on 21 December 1965, entered into force 4 January 1969) 660 UNTS 195 (ICERD).

intersectional rights violations experienced by minority-refugees, by the treaty bodies tasked with monitoring these treaties.

However, in their practice, UN treaty bodies have primarily constructed minority-refugees as refugees and not as persons belonging to minorities. In practice, this classification, directly influences the rights minority-refugees are recognised to have. The Committee on Economic, Social and Cultural Rights (CESCR), the Committee on Racial Discrimination (CERD) and the Human Rights Committee (HRC) have all addressed the rights of refugees under a broad range of provisions in their respective treaties in Concluding Observations on major minority-refugee receiving States. However, they tend to focus on issues that impact all refugees such as *refoulement*,⁵⁶ reception conditions,⁵⁷ discrimination,⁵⁸ access to education,⁵⁹ and health care.⁶⁰ Many of the rights addressed by UN treaty bodies mirror the protection offered under the UN Refugee Convention.⁶¹ We do not dispute that the recognition of these basic rights is of the utmost importance for minority-refugees. However, the construction of a ‘category’ such as refugees as a homogenous group, runs the risk of ‘render[ing] invisible experiences of the

⁵⁶ HRC, ‘Concluding observations on the fifth periodic report of Jordan’ (4 December 2017) UN Doc CCPR/C/JOR/CO/5 [24]-[25]; HRC, ‘Concluding observations on the third periodic report of Lebanon’ (9 May 2018) UN Doc CCPR/C/LBN/CO/3 [37]-[38]; CERD, ‘Concluding observations on the combined eighteenth to twenty-second periodic reports of Lebanon’ (5 October 2016) UN Doc CERD/C/LBN/CO/18-22 [28]-[29].

⁵⁷ CERD, ‘Concluding observations on the combined nineteenth to twenty-second periodic reports of Germany’ (30 June 2015) UN Doc CERD/C/DEU/CO/19-22 [18]; CESCR, ‘Concluding observations on the second periodic report of Greece’ (27 October 2015) UN Doc E/C.12/GRC/CO/2 [11]; HRC, ‘Concluding observations on the second periodic report of Greece’ (3 December 2015) UN Doc CCPR/C/GRC/CO/2 [27]-[28]; CERD, ‘Concluding observations on the twentieth to twenty-second periodic reports of Greece’ (3 October 2016) UN Doc CERD/C/GRC/CO/20-22 [22(b)]; CESCR, ‘Lebanon’ (n 44) [23]-[24]; CERD, ‘Jordan’ (n 44) [16(a)].

⁵⁸ CESCR, ‘Lebanon’ (n 44) [23]-[24]; CERD, ‘Lebanon’ (n 56) [28].

⁵⁹ CERD, ‘Germany’ (n 57) [18]; CESCR, ‘Concluding observations on the sixth periodic report of Germany’ (27 November 2018) UN Doc E/C.12/DEU/CO/6 [60(c)]; CERD, ‘Lebanon’ (n 56) [62]-[63].

⁶⁰ CERD, ‘Germany’ (n 57) [18]; CESCR, ‘Germany’ (n 59) [59].

⁶¹ Articles 21, 22, 33 UN Refugee Convention.

more marginal members of that specific social category'.⁶² UN treaty bodies do not fall into this trap entirely, as they do occasionally recognise the specific needs of women and child refugees.⁶³ Yet, they do construct refugees as a homogenous ethnic/cultural group by addressing refugees as a coherent whole and this obscures the additional forms of oppression experienced by minority-refugees.

This is particularly apparent when it comes to minority-refugees' right to cultural identity, the foundation of minority rights protection.⁶⁴ The ICCPR, ICERD and ICESCR all contain rights that are directly relevant to the preservation of minority identity. Article 27 ICCPR specifically establishes a right for persons belonging to ethnic, religious or linguistic minorities 'to enjoy their own culture, to profess and practise their own religion, or to use their own language'. Further, Article 5(e)vi ICERD establishes a right to participate in cultural activities without discrimination 'based on race, colour, descent, or national or ethnic origin'.⁶⁵ Notably, while both of these rights have a limited scope of application, they apply to persons who are ethnically different from the majority and are, thus, of specific relevance to persons belonging to minorities. In contrast, Article 15(1) ICESCR sets out a 'the right of everyone: (a) To take part in cultural life' and has been interpreted to encompass a right to cultural identity.⁶⁶

⁶² Nira Yuval-Davis, 'Intersectionality and Feminist Politics' (2006) 13 *European Journal of Women's Studies* 193, 195.

⁶³ HRC, 'Greece' (n 57) [21]-[22]; CERD, 'Greece' (n 57) [22]-[23]; CERD, 'Jordan' (n 44) [16(c)]-[16(d)]; CESCR, 'Germany' (n 59) [60].

⁶⁴ Stephanie E. Berry, 'Democracy and the Preservation of Minority Identity: Fragmentation within the European Human Rights Framework' (2017) 24 *International Journal on Minority and Group Rights* 205, 213-14.

⁶⁵ Article 5(e)vi read in conjunction with Article 1(1) ICERD.

⁶⁶ Laura Pineschi, 'Cultural Diversity as a Human Right? General Comment No. 21 of the Committee on Economic, Social and Cultural Rights' in Silvia Borelli and Federico Lenzerini (eds), *Cultural Heritage, Cultural Rights, Cultural Diversity—New Developments in International Law* (Martinus Nijhoff Publishers 2012) 36.

However, UN treaty bodies' Concluding Observations in respect of these rights have tended to focus on specific autochthonous minorities within State parties, such as the Muslim minority in Thrace, Greece,⁶⁷ the Dom and Bedouin minorities in Lebanon⁶⁸ and the Dom/Roma minorities in Jordan.⁶⁹ Even the CESCR tends to view the scope of the right to cultural identity through the prism of minority rights,⁷⁰ despite the fact Article 15(1) ICESCR is applicable to 'everyone'. This is not to suggest that minority-refugees are directly excluded from this right, rather they are not expressly recognised as rightsholders.

Vague pronouncements have been made by all three treaty bodies in relation to the right to cultural identity that could be read to extend to minority-refugees. For example, they have all encouraged Greece to broaden its definition of 'ethnic minorities' and, thereby, ensure that 'all minorities' are able to benefit from the right to preserve their culture.⁷¹ Further, CESCR has required that States ensure migrants, asylum seekers and refugees' 'enjoyment of their economic, social and cultural rights'.⁷² Whereas, in General Comment No. 23 on 'the rights of minorities', the HRC explained, more generally: 'Just as they need not be nationals or citizens, they need not be permanent residents. Thus, migrant workers or even visitors in a State party constituting such minorities are entitled not to be

⁶⁷ HRC, 'Greece' (n 57) [43]-[44].

⁶⁸ CESCR, 'Lebanon' (n 44) [64].

⁶⁹ CERD, 'Jordan' (n 44) [24]-[25].

⁷⁰ CESCR, 'Concluding observations on the sixth periodic report of Norway' (2 April 2020) UN Doc E/C.12/NOR/CO/6 [46]-[47]; CESCR, 'Concluding observations on the sixth periodic report of the Netherlands' (6 July 2017) UN Doc E/C.12/NLD/CO/6 [54]; CESCR, 'Lebanon' (n 44) [64]-[65].

⁷¹ CESCR, 'Greece' (n 57) [10]; HRC, 'Greece' (n 57) [43]; CERD, 'Greece' (n 57) [10]-[11].

⁷² CESCR, 'Concluding Observations on the Sixth Periodic Report of Spain' (12 November 2019) UN Doc E/C.12/ESP/CO/6 [40]. See also, CESCR, 'Greece' (n 57) [12].

denied the exercise of those rights’.⁷³ Yet, only on one occasion, shortly after the adoption of General Comment No. 23 and prior to the humanitarian crisis, did the HRC recommend that a State extend the scope of application of Article 27 ICCPR to those granted asylum.⁷⁴

Consequently, all three treaty bodies have recognised the relevance of the right to cultural identity to ‘ethnic minorities’ generally and have not limited its scope of application to autochthonous minorities. Yet, they rarely explicitly recognise that it is applicable to ‘newcomers’ to the State and they do not specify which ‘ethnic minorities’ require attention. By referring to autochthonous minorities by name and treating the broader category of ‘ethnic minorities’ as a homogenous group, UN treaty bodies suggest that all non-autochthonous minorities have an identical experience and, therefore, identical needs. Yet, as recognised in the previous section, minority-refugees not only have a qualitatively different experience to autochthonous minorities but also to refugees who belonged to the majority in their home State. As a result, they require specific attention from UN treaty bodies.

Further, under the current approach, there is a risk that minority-refugees will be excluded from the right to cultural identity entirely, because they are not recognised as persons belonging to minorities. There is no agreed definition of ‘minority’ under IHRL, despite several attempts to capture one.⁷⁵ Notably, these attempted definitions tend to be narrow and establish requirements such as nationality or citizenship,⁷⁶ both of which exclude

⁷³ HRC, ‘General Comment No. 23’ on ‘The Rights of Minorities (Art. 27)’ UN Doc CCPR/C/21/Rev.1/Add.5 [5.2].

⁷⁴ HRC, ‘Concluding observations of the fourth periodic report of Germany’ (8 November 1996) UN Doc CCPR/C/79/Add.73 [13].

⁷⁵ Francesco Capotorti, *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities* UN Doc E/CN.4/Sub.2/384/Rev.1 [568]; Jules Deschênes, ‘Proposal Concerning a Definition of the Term “Minority”’, UN Doc E/CN.4/Sub.2/1985/31 [181].

⁷⁶ *ibid.*

minority-refugees. States have similarly sought to limit their obligations in relation to the right of persons belonging to minorities to cultural identity. The drafters of Article 27 ICCPR envisioned that its scope of application would be interpreted narrowly to exclude migrants and other ‘new minorities’, who were instead expected to assimilate into their new society.⁷⁷ This approach persists and several major refugee receiving States, namely, Greece, Germany and Turkey, that have historically sought to limit their obligations under Article 27 ICCPR through the adoption of narrow, exclusionary definitions.⁷⁸ Thus, States may not read vague pronouncements concerning the right of ‘ethnic minorities’ to cultural identity as encompassing minority-refugees.

The UN treaty bodies have not explicitly recognised intersectional rights violations experienced by minority-refugees. However, this cannot be attributed to a lack of awareness as they have explicitly addressed the persecution of minority-refugees in their home States, in their Concluding Observations. For example, they have expressed concern at the persecution of the Yazidis by ISIS in Iraq⁷⁹ and, specifically, recognised the right of Yazidis to cultural identity and cultural heritage.⁸⁰ Further, the HRC has urged the Syrian government to ensure that all members of the Kurdish minority are able to

⁷⁷ Marc J. Bossuyt, *Guide to the “Travaux Préparatoires” of the International Covenant on Civil and Political Rights* (Martinus Nijhoff Publishers 1987) 495.

⁷⁸ See reservation of Turkey: treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=_en&mtdsg_no=IV-4&src=IND#EndDec; HRC, ‘Fourth Periodic Report of Germany’ (22 February 1996) UN Doc CCPR/C/84/Add.5 [242]-[244]; HRC, ‘Initial Report of Greece’ (15 April 2004) UN Doc CCPR/C/GRC/2004/1 [895].

⁷⁹ CERD, ‘Concluding observations on the combined fifteenth to twenty-first periodic reports of Iraq’ (22 September 2014) UN Doc CERD/C/IRQ/CO/15-21 [6], [12], [16], [17]; CESCR, ‘Concluding observations on the fourth periodic report of Iraq’ (27 October 2015) UN Doc E/C.12/IRQ/CO/4 [25]; HRC, ‘Concluding observations on the fifth periodic report of Iraq’ (3 December 2015) UN Doc CCPR/C/IRQ/CO/5 [19]-[20].

⁸⁰ CERD, ‘Iraq’ (n 79) [6], [17].

enjoy their own culture and use their own language.⁸¹ In contrast, persons belonging to Dom minorities have not been explicitly named in Concluding Observations concerning Iraq and the Syrian Arab Republic. However, they are captured by generic statements that express concern about ‘ethnic or religious minorities’⁸² and minorities with ‘non-Arab heritage’.⁸³ Yet, as soon as members of these groups cross an international border to escape this persecution, the categorisation of minority-refugees as refugees shifts the focus of UN treaty bodies away from these previously recognised rights. The neglect of minority-refugees’ cultural identity under IHRL obscures their interests and has the potential to compound their oppression.

The current approach of UN treaty bodies is also counterintuitive in instances where minority-refugees have fled to a host State where the same minority already exists and is subject to persecution. For example, UN treaty bodies have expressed concern at the persecution of the autochthonous Dom minority in Jordan and Lebanon and Kurdish minority in Turkey.⁸⁴ In instances where Dom or Kurdish minority-refugees’ have fled to these States, their experience of persecution in their home State is likely to be compounded by the threat of persecution in the host State, as well as the burden of refugee status. In these cases, any distinction between the rights of old and new members of the same group is potentially arbitrary, and also fails to recognise the potential for minority-refugees to experience persecution in the host State.

⁸¹ HRC, ‘Concluding observations on the third periodic report of Syrian Arab Republic’ (9 August 2005) UN Doc CCPR/CO/84/SYR [18]-[19].

⁸² HRC, ‘Iraq’ (n 79) [43].

⁸³ CESCR, ‘Concluding observations on third periodic report of Syrian Arab Republic’ (24 September 2001) UN Doc E/C.12/1/Add.63 [13].

⁸⁴ HRC, ‘Turkey’ (n 44) [9]; CERD, ‘Jordan’ (n 44) [24]-[25]; CESCR, ‘Lebanon’ (n 44) [64].

While the UN human rights treaty framework does not categorise persons belonging to minorities and refugees in a way that precludes the recognition of intersectional rights violations, the practice of UN treaty bodies does. This suggests that the failure to prioritise the oppression of minority-refugees by treaty bodies, is political, rather than structural. Political intersectionality ‘focusses on the failure to recognise or prioritise oppression or aspects of the oppression of a subject by one or more equality-seeking groups’.⁸⁵ Within UN treaty bodies, the failure to recognise the intersectional oppression experienced by minority-refugees potentially has multiple causes.

UN treaty bodies have broad mandates, and, therefore, cannot directly address every human rights violation occurring within a State. As previously established, a number of major minority-refugee receiving States do not respect the basic rights of refugees, nor the right of autochthonous minorities to cultural identity. Thus, the right of minority-refugees to cultural identity may simply not be a priority for UN treaty bodies.

They are also reliant on the interventions of non-governmental organisations (NGOs), in order to identify the most pressing issues within States.⁸⁶ As has been observed in intersectional scholarship more broadly, the strategies adopted by single-issue political actors, such as NGOs, tend to prioritise the experience of dominant members of a group and marginalise those with intersectional experiences of oppression.⁸⁷ This is no different in the UN, where NGO Shadow Reports to the UN treaty bodies in relation to major refugee receiving States following the humanitarian crisis have focused on the ‘universal’ experience of refugees and have, thus, prioritised violations of basic refugee rights, such

⁸⁵ Skeet (n 51) 276.

⁸⁶ Suzanne Egan, ‘Transforming the UN Human Rights Treaty System: A Realistic Appraisal’ (2020) 42 *Human Rights Quarterly* 726, 781-82.

⁸⁷ Crenshaw (n 5) 1259-60.

as the principle of *non-refoulement*.⁸⁸ Consequently, the priorities of the actors within the system may have led to the neglect of minority-refugees' right to cultural identity.

UN treaty bodies may also be reticent to address minority-refugees' right to cultural identity in their Concluding Observations because this is likely to be a politically controversial proposition. Notably, States were initially reluctant to accept obligations in relation to persons belonging to minorities and refugees and, as a result, sought to reserve a right to assimilate newcomers during the drafting processes of both Article 27 ICCPR⁸⁹ and the UN Refugee Convention.⁹⁰ Many refugee receiving States are not only resistant to the extension of Article 27 ICCPR to newer groups⁹¹ but continue to adopt assimilation policies in relation to autochthonous minorities, for example, by prohibiting the use of minority languages.⁹² As assimilation demands culture shedding,⁹³ it is inherently incompatible with the right to cultural identity and has been discredited under both the IHRL and international refugee law frameworks.⁹⁴ Nonetheless, UN treaty body

⁸⁸ See, for example, Medecins Du Monde- Delegation Hellenique, 'Report on the Situation in the Reception & Identification Center of Moira Lesbos' <https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GRC/INT_CERD_NGO_GRC_24723_E.pdf>; Open Society Institute, 'Submission to the UN Human Rights Committee: Review of Germany' <https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/DEU/INT_CCPR_NGO_DEU_14668_E.pdf>; Greek Council for Refugees, 'Report of the Greek Council for Refugees to the Human Rights Committee on Detention Issues (ICCPR art. 7, 9 and 10) in View of its 113th Session' <https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/GRC/INT_CCPR_ICO_GRC_19174_E.pdf>.

⁸⁹ Bossuyt (n 77) 495.

⁹⁰ UN Ad Hoc Committee on Refugees and Stateless Persons, Second Session, Summary of the Thirty Ninth Meeting, 21 August 1950, E/AC.32/SR.39. See also Article 34 UN Refugee Convention.

⁹¹ See reservation of Turkey (n 78); HRC, 'Germany' (n 78) [242]-[244]; HRC, 'Greece' (n 78) [895].

⁹² HRC, 'Turkey' (n 44) [9].

⁹³ John W. Berry, 'Immigration, Acculturation, and Adaptation' (1997) 46(1) *Applied Psychology: An International Review* 5, 24.

⁹⁴ UN Commission on Human Rights, 'Commentary of the Working Group on Minorities to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities' (4 April 2005) UN Doc E/CN.4/Sub.2/AC.5/2005/2 [21]; UNHCR, *UNHCR Resettlement Handbook Geneva* Revised edition (July 2011) 177 <www.unhcr.org/46f7c0ee2.pdf>; UNHCR, 'A New

recommendations that expressly recognise minority-refugees' right to cultural identity have the potential to be unpopular and distract from other priorities, such as the recognition of basic refugee rights. Thus, UN treaty bodies' failure to address minority-refugees' right to cultural identity may simply be a political calculation.

While it is possible for UN treaty bodies to recognise the intersectional nature of the oppression experienced by minority-refugees, they have not done so in practice. Notably, the neglect of minority-refugees' right to cultural identity, appears to be a result of political priorities within UN treaty monitoring system rather than structural factors. However, the current practice of UN treaty bodies has the potential to exacerbate the oppression experienced by these minority-refugees. As warned by Crenshaw, '[i]ntersectional subordination need not be intentionally produced; in fact, it is frequently the consequence of the imposition of one burden that interacts with preexisting vulnerabilities to create yet another dimension of disempowerment'.⁹⁵ Specifically, by not explicitly recognising and addressing minority-refugees' right to cultural identity, UN treaty bodies run the risk of legitimising the adoption of assimilation policies by host States.

4. THE IMPLICATIONS OF CURRENT UN TREATY BODY PRACTICE

The failure of UN treaty bodies to expressly recognise minority-refugees' right to cultural identity has the potential to legitimise the adoption of assimilation policies by host States. Significantly, this is not just a theoretical problem. In practice, some host States continue

Beginning: Refugee Integration in Europe' (September 2013) 11
<www.unhcr.org/uk/protection/operations/52403d389/new-beginning-refugee-integration-europe.html>
last accessed 20 April 2021.

⁹⁵ Crenshaw (n 5) 1245.

to adopt policies of forced assimilation in relation to autochthonous members of the same minorities. Other States adopt policies that have an assimilatory effect. For example, dispersal policies may prevent refugees from settling with culturally similar groups within States,⁹⁶ whereas, EU safe third country policies⁹⁷ may prevent minority-refugees from relocating to States where a sizable community already exists. Both policies undermine the creation of the cultural resources needed to facilitate the preservation of minority-refugees' culture when they are dislocated from their land and community.⁹⁸

More generally, refugee integration policies at a national, European and international level have been accused of conflating integration and assimilation.⁹⁹ In contrast to assimilation policies that require culture shedding, integration policies emphasise the mutual adaptation of both the dominant group and non-dominant groups¹⁰⁰ and, therefore, respect minority-refugees' right to cultural identity.¹⁰¹ However, refugee 'integration' policies tend to place the onus of adaptation on to refugees and neglect the role of the majority in the 'two-way process' of integration.¹⁰²

This section argues that the adoption of assimilation policies by host States has negative implications for minority-refugees —both individually and as a group— and for the host-

⁹⁶ OECD (n 45) 22-30; European Commission (n 45).

⁹⁷ Safe third country rules allow EU member States to return asylum-seekers to a State where they will not be subject to harm and are able to apply for refugee status, subject to certain provisos set out in Article 38 Parliament and Council Directive 2013/32/EU of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) OJ L180/60.

⁹⁸ Phillimore (n 17) 589; Brigitte Suter, 'Before and after' (*Sussex Centre for Migration Research Conference Blogs*, 14-16 September 2016) <www.sussex.ac.uk/migration/research/integrationcitizenship/refugeeresettlement/conference-blogs>.

⁹⁹ See generally, Alexandra Xanthaki, 'Against Integration, For Human Rights' (2016) 20 *The International Journal of Human Rights* 815.

¹⁰⁰ Tariq Modood, *Multiculturalism—A Civic Idea* (2nd edn, Polity Press 2013) 44.

¹⁰¹ Berry (n 93) 10.

¹⁰² See generally, Xanthaki (n 99).

society. This also undermines the ability of IHRL and IMRL to achieve their core objectives: the protection of human dignity;¹⁰³ the preservation and continued existence of minority identities;¹⁰⁴ and social stability and cohesion.¹⁰⁵ UN treaty bodies must not only address minority-refugees' right to cultural identity in their monitoring practice, but they must also respond to the intersectional experience of these groups.

4.1. HUMAN DIGNITY AND THE RECOGNITION OF MINORITY-REFUGEES' RIGHT TO PRESERVE THEIR CULTURAL IDENTITY

By legitimising assimilation policies, the neglect of individual minority-refugees' right to cultural identity by UN treaty bodies has the potential to endanger their dignity. As Raz suggests '[r]especting human dignity entails treating [individuals] as persons capable of planning and plotting their future'.¹⁰⁶ Assimilation policies undermine minority-refugees' dignity, by hampering their ability to participate in the host society and limiting their options. The challenges faced by individual minority-refugees in this respect are likely to be further exacerbated by their pre-migration experience. As human dignity is one of the one of the aims of IHRL,¹⁰⁷ UN treaty bodies should recognise minority-refugees' right to cultural identity by explicitly prohibiting forced assimilation policies, as well as policies that have an assimilatory effect in practice.

¹⁰³ Preamble and Article 1 Universal Declaration of Human Rights (10 December 1948) UN GA Res 217 A (III) (UDHR); Preamble ICERD; Preamble ICCPR; Preamble ICESCR.

¹⁰⁴ Article 1(1) UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (adopted on 18 December 1992) UN Doc A/RES/47/135 (UNDM); UN Commission on Human Rights (n 94) [23]-[24].

¹⁰⁵ Preamble UNDM; UN Commission on Human Rights (n 94) [3].

¹⁰⁶ Joseph Raz, *The Authority of Law* (Clarendon Press 1979) 221.

¹⁰⁷ See, for example, Preamble, Universal Declaration of Human Rights; Preamble ICERD; Preamble ICCPR; Preamble ICESCR, Preamble UDMR.

Assimilation policies, by requiring culture shedding, deprive minority-refugees of choices upon which they base their conception of the good life, and thus have the potential to undermine their dignity. Respect for human dignity requires that individuals can choose and revise rational life plans; although society may provide some options, access to your own culture is central to ‘the successful pursuit of worth-while goals and relationships’.¹⁰⁸ This is because culture provides individuals with meaningful options and thus influences how they choose to live their lives.¹⁰⁹ The close relationship between the protection of culture and dignity has also been recognised by the CESCR: ‘the protection of cultural diversity is an ethical imperative, *inseparable from respect for human dignity*’.¹¹⁰ However, assimilation policies limit minority-refugees’ choices to the options offered by the host State’s culture/s. This restricts their ability to make autonomous and meaningful choices and, therefore, impairs their dignity. These policies are likely to endanger minority-refugees’ dignity to a greater extent than other refugees, because minority-refugees have been subject to oppression and prevented from making meaningful choices about their lives in their home States. This combines with assimilation policies in host States to further limit individual minority-refugees’ freedom to choose their life plans.

Although there is no universally agreed definition of what human dignity means, Clapham maintains that human dignity requires the creation and protection of ‘the

¹⁰⁸ Avishai Margalit and Joseph Raz, ‘National Self-determination’ (1990) 87 *The Journal of Philosophy* 439, 448.

¹⁰⁹ Joel .E Oestreich, ‘Liberal Theory and Minority Group Rights’ (1999) 21(1) *Human Rights Quarterly* 108, 117; Will Kymlicka, *Multicultural Citizenship: A liberal Theory of Minority Rights* (Clarendon Press 1995) 101.

¹¹⁰ CESCR, ‘General Comment No. 21’ on ‘Right of everyone to take part in cultural life (art. 15, para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights)’ UN Doc E/C.12/GC/21 [40] (emphasis added).

conditions for everyone's self-fulfilment (or autonomy or self-realization)'.¹¹¹ For minority-refugees, self-realisation requires their successful adaptation and, thus, participation in the host society. However, assimilation policies undermine the ability of refugees to adapt to host States and are more likely to result in marginalisation or separation.¹¹² As acknowledged by Raz, '*the demand for a forced retraining and adaptation* is liable to undermine people's dignity and self-respect [...] It shows that the state [...] has no respect for their culture, finds it inferior and plots its elimination'.¹¹³ Specifically, assimilation policies aggravate the oppression experienced by minority-refugees in their home State, and, thus, have the potential to undermine their ability to adapt by exacerbating prior psychological trauma and causing 'acculturative stress'.¹¹⁴ A study focusing on Kurdish refugees in Norway and Sweden has demonstrated that their experience in their home States has made it difficult for those refugees to form a 'satisfactory relationship with [their] new societies'.¹¹⁵ Further, where Kurdish refugees have suffered from discrimination as ethnic minorities in their home States, this experience led them to misconstrue unpleasant behaviour faced in host societies as discriminatory.¹¹⁶ Consequently, assimilation policies have the potential to undermine the ability of individual minority-refugees' to participate in the host society more than other refugees.

As assimilation policies impede the realisation of one of the main objectives of IHRL, the protection of human dignity, it is important that UN treaty bodies explicitly acknowledge that individual minority-refugees have the right to cultural identity and, accordingly,

¹¹¹ Andrew Clapham, *Human Rights in the Private Sphere* (Clarendon Press 1993) 148-49.

¹¹² van Oudenhoven, Ward and Masgoret (n 17) 641; Phillimore (n 17) 577.

¹¹³ Joseph Raz, 'Multiculturalism' (1998) 11 *Ratio Juris* 193, 200 (emphasis added).

¹¹⁴ Berry (n 93) 14. For Berry, acculturative stress denotes that 'changes in the cultural context exceed the individual's capacity to cope, because of the magnitude, speed, or some other aspect of the change, leading to serious psychological disturbances, such as clinical depression, and incapacitating anxiety'.

¹¹⁵ Fatahi and Økland (n 18) 6.

¹¹⁶ *ibid* 1, 4.

prohibit the adoption of both forced assimilation policies and those policies that have an assimilatory effect by host States.

4.2. THE PRESERVATION AND CONTINUED EXISTENCE OF MINORITY-REFUGEES' CULTURAL IDENTITY

The failure of UN treaty bodies to address minority-refugees' right to cultural identity in host States has the potential to not only exacerbate historical persecution but also result in the complete destruction of the group. This risk is compounded when persons belonging to the same minorities continue to be subject to persecution in their home State. Thus, a negative interpretation of the scope of the right to cultural identity, that simply prohibits forced assimilation is insufficient to ensure the preservation and continued existence of minority-refugees' cultural identities. UN treaty bodies must recognise that host States have a positive obligation to ensure the continued existence of minority-refugees' cultures, in light of the distinct obstacles they face.

Significantly, the preservation and continued existence of minority identities is one of the primary objectives of IMRL.¹¹⁷ Article 1(1) of the UN Declaration on the Rights of Persons Belonging to Ethnic or National, Religious and Linguistic Minorities (UNDM) establishes that States are under an obligation to 'protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories'. The Commentary to the UNDM, further, elaborates that existence should be understood to extend beyond physical existence to 'respect for and protection of their

¹¹⁷ Berry (n 64) 213-14.

religious and cultural heritage, essential to their group identity’.¹¹⁸ However, the current approach of UN treaty bodies has the potential to undermine this objective.

As a result of intersectional oppression, the culture of minority-refugees is particularly susceptible to elimination. As previously discussed, minority-refugees have frequently been subject to historical persecution and forced assimilation in their home States, as well as acts of both physical and ‘cultural’ genocide, such as the destruction of religious or cultural sites, by ISIS. While minority-refugees have fled persecution linked to their identity, they face further obstacles to the preservation of their cultural identities in host States that adopt assimilation policies and, thus, demand culture shedding. Groups such as the Dom and Yazidis, who were already small in number, may not have a sufficient critical mass to guarantee the continued existence of their culture. Thus, their treatment in host States is central to the continued existence of their culture. Even Kurdish minority-refugees, who are numerically much larger than the Dom and Yazidis, recognise the need to proactively ‘protect their identity’ in host States.¹¹⁹ Significantly, as minority-refugees cannot rely on the support of kin-States and are unlikely to return home¹²⁰ they are to some extent dependent upon the measures adopted by host States to facilitate the preservation of their culture. Thus, the recognition that minority-refugees continue to hold the right to cultural identity in host States is central to the continued existence of their culture.

Most notably, the dispersal of minority-refugees, either amongst different host States or within the same host States,¹²¹ poses barriers to the continued existence of their culture.

¹¹⁸ UN Commission on Human Rights (n 94) [24].

¹¹⁹ Nabi Fatahi, ‘The Impact of the Migration on Psychosocial Well-Being: A Study of Kurdish Refugees in Resettlement Country’ (2014) 4 *Journal of Community Medicine and Health Education* 1, 6.

¹²⁰ Chris Chapman and Preti Taneja, ‘Uncertain Refugees, Dangerous Return: Iraq’s Uprooted Minorities’ (Minority Rights Group, 2009) 3 <minorityrights.org/wp-content/uploads/old-site-downloads/download-710-Download-full-report.pdf>.

¹²¹ OECD (n 45) 22-30; European Commission (n 45).

In both instances, dispersal obstructs the preservation of the aspects of minority-refugees' culture that would usually be practiced in community with others. However, it also prevents minority-refugees from establishing cultural resources, such as cultural centres, places of worship or language provision, that could enable the preservation of their cultural identity.¹²² By reducing the opportunities for members of these groups to interact with one another, dispersal policies also weaken minority-refugees' cultural bond.¹²³ For these groups, dispersal policies may align more closely with policies of forced assimilation that are *prima facie* incompatible with the right to cultural identity and, most notably, have been prohibited under IMRL.¹²⁴

Consequently, if UN treaty bodies are to avoid the elimination of the culture of minority-refugees then they must encourage States to adopt policies that actively counter assimilation. Both the HRC and CESCR have interpreted Article 27 ICCPR and Article 15(1)(a) ICESCR, respectively, to give rise to positive obligations.¹²⁵ In relation to minority-refugees, UN treaties bodies could suggest that States not only refrain from applying dispersal policies to minority-refugees, but that they also take active steps to ensure that they are able to settle in the same area, should they so wish.¹²⁶ In cases where numerically small minorities are dispersed amongst different host States, States could be encouraged to override 'safe third country' policies, to allow minority-refugees to settle together. Although not ideal, in instances where it is not feasible for minority-refugees to

¹²² Stephanie E. Berry, 'Aligning Interculturalism with International Human Rights Law: "Living Together" without Assimilation' (2018) 18 Human Rights Law Review 441, 459.

¹²³ Phillimore (n 17) 589.

¹²⁴ Article 1(1) UNDM; UN Commission on Human Rights (n 94) [21], [27]-[28].

¹²⁵ HRC (n 73) [6.1]; CESCR (n 110) [6].

¹²⁶ In accordance with the principle of self-identification of persons belonging to minorities, minority-refugees should not be forced to settle in the same areas as others with similar cultural background, against their will. See further, Article 3 Framework Convention for the Protection of National Minorities (adopted 1 February 1995, entered into force 1 February 1998) ETS 157.

settle together, UN treaty bodies could urge host States to actively facilitate transnational networks, as these are proven to facilitate contact and the maintenance of refugees' cultural identities.¹²⁷ Similarly, minority media may also positively influence the preservation of minority-refugees' cultural identity,¹²⁸ when dispersed amongst different host States.

While UN treaty bodies have expressed concern about the destruction of minority-refugees' cultures in their home States, the attribution of 'refugee status' to minority-refugees shifts the focus of UN treaty bodies away from ensuring the continued existence of these cultures. Yet, the intersectional experience of minority-refugees in host States places their culture at additional risk of disappearing. Measures to counteract the disappearance of minority-refugee's culture are vital not only for the continued existence of the group but also, as previously established, the dignity of individual minority-refugees. If these cultures are to be preserved, in accordance with the *raison d'être* of IMRL, UN treaty bodies must not only recognise minority-refugees' right to cultural identity, but that host States have a positive obligation to facilitate this.

4.3. THE SOCIAL STABILITY AND COHESION OF HOST STATES

¹²⁷ Jennifer M. Brinkerhoff, *Digital Diasporas—Identity and Transnational Engagement* (CUP 2009) 44-59; Giorgia Donà and Marta Young, 'Refugees and Forced Migrants' in David L. Sam and John W. Berry (eds), *The Cambridge Handbook of Acculturation Psychology* (2nd edn, Cambridge University Press 2016) 158-59.

¹²⁸ For a discussion of the role of the media in the preservation of minority cultural identity, see OSCE, 'Tallinn Guidelines on National Minorities and the Media in the Digital Age' <www.osce.org/hcnm/tallinn-guidelines>; AC-FCNM, 'Thematic Commentary No. 4: The Scope of Application of the Framework Convention for the Protection of National Minorities' ACFC/56DOC(2016)001 [69]-[70].

The failure of UN treaty bodies to recognise minority-refugees' right to cultural identity also has negative implications for the host State's society. Assimilation policies tend to require culture shedding and, in so doing, focus on the adaptation of newcomers to the State but not the adaptation of the host society. Significantly, such policies have the potential to exacerbate the intergroup anxiety of minority-refugees and the host society alike and, thus, undermine social cohesion.¹²⁹ IMRL recognises this mutually reinforcing relationship between 'the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities', on the one hand, and 'the political and social stability of States in which they live', on the other.¹³⁰ Indeed, security and stability have been identified as one the main aims of IMRL.¹³¹ In order to realise this aim, UN treaty bodies must encourage States to adopt acculturation policies that respect minority-refugees' right to cultural identity, alongside policies to promote tolerance of diversity and social cohesion in the host society.

The preference for assimilation policies that demand culture shedding in host States is frequently driven by the majority's fear that refugees 'will reject local beliefs and customs, and thus bring about changes in cherished values and norms'.¹³² However, Esses and others have demonstrated that the majority's sense of threat is exacerbated if newcomers do not comply with assimilation policies.¹³³ This even has the potential to

¹²⁹ Victoria M. Esses and others, 'The Immigration Dilemma: The Role of Perceived Group Competition, Ethnic Prejudice, and National Identity' (2001) 57 *Journal of Social Issues* 389, 391.

¹³⁰ Preamble UNDM. See also, *Minority Schools in Albania*, PCIJ Series A./B. Advisory Opinion of 6 April 1935, 17; UN Commission on Human Rights (n 94) [3].

¹³¹ Will Kymlicka, *Multicultural Odysseys: Navigating the New International Politics of Diversity* (OUP 2007) 214.

¹³² Hynie (n 17) 269.

¹³³ Esses and others (n 129) 391. See also, Walter G. Stephan and Cookie White Stephan, 'An Integrated Threat Theory of Prejudice' in Stuart Oskamp (ed), *Reducing Prejudice and Discrimination* (Lawrence Erlbaum Associates 2000) 25.

result in increased demands for culture shedding.¹³⁴ Thus, the perceived willingness of newcomers to adapt to the host society directly correlates with the majority's perception of threat. However, assimilation policies have the potential to be counterproductive. As discussed, above, the rejection of their culture by the host society has the potential to undermine the ability of minority-refugees to adapt.¹³⁵ It may also lead them to identify even more strongly with their own culture¹³⁶ and lead to social marginalisation or separation.¹³⁷

In contrast to assimilation policies, integration policies that respect newcomers' right to cultural identity have been shown to reduce the majority's sense of threat because newcomers find it easier to comply with the demands of the host society.¹³⁸ As minority-refugees are even more reluctant to give up their cultural identity, as a result of their experience of historical persecution,¹³⁹ they are more likely to be able to comply with integration policies than assimilation policies. Significantly, social psychologists have also demonstrated that integration policies are associated with much better outcomes for both host societies and non-dominant groups than assimilation policies.¹⁴⁰ Consequently, were UN treaty bodies to require that 'integration' policies respect the right of minority-refugees to preserve their cultural identity in their Concluding Observations, this is likely to benefit the host society as a whole, and not just minority-refugees.

¹³⁴ Jan Pieter van Oudenhoven, Jaimee Stuart and Linda K. Tip, 'Immigrants and Ethnocultural Groups' in Sam and Berry (n 127) 140-41; Rúben L Silva and others, 'How Inclusive Policies Shape Prejudice Versus Acceptance of Refugees: A Portuguese Study' (2018) 24 *Peace and Conflict: Journal of Peace Psychology* 296, 304.

¹³⁵ John W. Berry and Colleen Ward, 'Multiculturalism' in Sam and Berry (n 127) 453-55; Phillimore (n 17) 585; van Oudenhoven, Stuart and Tip (n 134) 137, 139.

¹³⁶ van Oudenhoven, Stuart and Tip (n 134) 137, 139. Berry and Ward (n 135) 453-54.

¹³⁷ van Oudenhoven, Ward and Masgoret (n 17) 641; Phillimore (n 17) 577.

¹³⁸ Esses and others (n 129) 391. See also Stephan and Stephan (n 133) 25.

¹³⁹ Im and Neff (n 31) 1, 11

¹⁴⁰ van Oudenhoven, Stuart and Tip (n 134) 139; Donà and Young (n 127) 156.

Nonetheless, the adoption of integration policies that simply respect the right of minority-refugees to cultural identity is unlikely to be sufficient to guarantee social cohesion in host States. Integration, by definition, also entails the adaptation of the majority to the presence of newcomers.¹⁴¹ Specifically, active steps are required to ensure that the host society is open to cultural diversity and newcomers are not viewed as a threat.¹⁴² This is vital because research has connected threat perception on the part of the majority with an increase in prejudice, discrimination and intolerance towards newcomers,¹⁴³ as well as intergroup anxiety.¹⁴⁴ Threat perception reduces the willingness of the majority to interact with refugees and immigrants.¹⁴⁵ Similarly, for minority-refugees, animosity may be reminiscent of persecution experienced in their home States and lead them to avoid contact with the host society.¹⁴⁶ As interaction is a precondition of threat and prejudice reduction and social cohesion,¹⁴⁷ host States must address threat perception in the design of integration policies. This is also important because if the majority holds negative attitudes and perceives that cultural groups pose a threat, it tends to oppose *all* policies that are perceived to benefit those groups.¹⁴⁸ Most notably, in Europe, the perception that alien cultures pose a threat has led to increased opposition to the recognition of basic

¹⁴¹ Berry (n 93) 19.

¹⁴² *ibid.*

¹⁴³ Esses and others (n 129) 394; Fethi Mansouri and Matteo Vergani, 'Intercultural Contact, Knowledge of Islam, and Prejudice Against Muslims in Australia' (2018) 66 *International Journal of Cultural Relations* 85, 85.

¹⁴⁴ Mansouri and Vergani (n 143) 85.

¹⁴⁵ Phillimore (n 17) 585; Esses and others (n 129) 394

¹⁴⁶ Phillimore (n 17) 585.

¹⁴⁷ See generally, Gordon W Allport, *The Nature of Prejudice* (Addison-Wesley 1954); Thomas Fraser Pettigrew and Linda R. Tropp, 'How does intergroup contact reduce prejudice? Meta-analytic tests of three mediators' (2008) 38 *European Journal of Social Psychology* 922.

¹⁴⁸ Esses and others (n 129) 394. See also Hynie (n 17) 70.

migrant and refugee rights for those who are culturally different.¹⁴⁹ Consequently, if steps are not taken to counter threat perception in the host society, this has the potential to expose minority-refugees to a wide range of harms in the host State beyond the failure to recognise their right to cultural identity.

Therefore, UN treaty bodies should encourage States to adopt measures to facilitate the adaptation of the host society to increased cultural diversity. From the perspective of social psychology, measures to increase knowledge of the other, combined with measures to increase interaction between members of different groups, with the aim of forging friendships, are central to such efforts.¹⁵⁰ Significantly, UN Treaty Bodies have previously highlighted the need for States to adopt measures to promote tolerance, eliminate prejudice and counteract stereotypes in society.¹⁵¹ However, such recommendations tend to be vague, are not targeted specifically at minority-refugees and require further elaboration in relation to how States can achieve these objectives in practice.¹⁵²

The failure of UN treaty bodies to address minority-refugees' right to cultural identity has the potential to undermine the social cohesion of host States, if host States take it as a green light to adopt assimilation as opposed to integration policies. However, social

¹⁴⁹ European Social Survey, 'Attitudes Towards Immigration and Their Antecedents: Topline Results from Round 7 of the European Social Survey' (November 2016) 4-7 <www.europeansocialsurvey.org/docs/findings/ESS7_toplines_issue_7_immigration.pdf>.

¹⁵⁰ Stephan and Stephan (n 133) 40-41. See also, Patrick Loobuyck, 'Towards an Intercultural Sense of Belonging Together: Reflections on the Theoretical and Political Level' in Nasar Meer, Tariq Modood and Ricardo Zapata-Barrero (eds), *Interculturalism and Multiculturalism: Debating the Dividing Lines* (Edinburgh University Press 2016) 225.

¹⁵¹ See for example, CERD, 'Concluding observations on the combined twenty third and twenty-fourth periodic reports of Norway' (2 January 2019) UN Doc CERD/C/NOR/CO/23-24 [12(e)]; HRC, 'Concluding observations on the sixth periodic report of Hungary' (9 May 2018) UN Doc CCPR/C/HUN/CO/6 (2018) [18].

¹⁵² For further discussion of how UN treaty bodies could develop their practice in this respect, see, Stephanie Eleanor Berry, 'A Positive State Obligation to Counter Dehumanisation under International Human Rights Law' [2020] *Erasmus Law Review* 5, 17-20.

cohesion and the acceptance of the right to cultural identity are mutually reinforcing. Consequently, UN treaty bodies must not only discourage States from trying to assimilate minority-refugees, but also emphasise the need for integration policies that actively facilitate the adaptation of the majority to the presence of minority-refugees, if minority-refugees' right to cultural identity is to be respected in practice.

5. CONCLUSION

This article has demonstrated that it is vital for UN treaty bodies to recognise and address the implications of intersectionality beyond the traditional categories of race, gender and/or disability, in their practice. By drawing on the hitherto unexplored intersection between the categories of persons belonging to minorities *and* refugees, it has revealed that failure to do so has consequences that reach further than the directly impacted individuals. Consequently, UN treaty bodies must adopt specific recommendations in their Concluding Observations pertaining to the distinct experiences of individuals belonging to intersecting social categories.

We have shown that minority-refugees experience intersectional oppression as a result of the interaction between their status as persons belonging to minorities and refugees. Although they suffer from similar patterns of oppression to those typifying these categories, they also have a qualitatively different experience. Minority-refugees' location at the intersection of two social categories specifically hampers their ability to preserve their cultural identity.

As minority-refugees have frequently sought refuge in order to escape persecution connected to their minority identity, it is essential that their right to cultural identity is

recognised in practice. However, UN treaty bodies tend to classify refugees as a homogenous group. While they do not exclude minority-refugees from the right to cultural identity, they also do not explicitly recognise that minority-refugees hold this right nor do they acknowledge how minority-refugees' qualitatively different experience impacts the realisation of this right. Crucially, the current practice of UN treaty bodies has the potential to implicitly legitimise the adoption of assimilation policies by States. In so doing, UN treaty bodies participate in the oppression of minority-refugees.

Assimilation policies run counter to minority-refugees' right to preserve their cultural identity and, in so doing, have a number of negative implications not all of which are immediately obvious. Specifically, they undermine the dignity of minority-refugees, by limiting their options and inhibiting their participation in the host society. Assimilation policies, further, have the potential to compound the persecution experienced by minority-refugees in their home States and result in the complete destruction of their culture. Finally, assimilation policies also undermine social cohesion in host States by aggravating the host society's threat perception and not requiring their adaptation. All of these implications are exacerbated by the intersectional nature of the oppression experienced by minority-refugees.

Therefore, it is imperative that UN treaty bodies not only recognise that minority-refugees' right to cultural identity but that they also address minority-refugees' distinct experience in their Concluding Observations. Specifically, UN treaty bodies must expressly prohibit the adoption of assimilation policies in relation to minority-refugees and instead require the adoption of integration policies. These policies should allow minority-refugees to preserve their cultural identity and also facilitate the mutual adaptation of minority-refugees and host societies alike. However, UN treaty bodies must also emphasise States' positive obligation to facilitate the preservation of minority-

refugees' cultural identity. For example, States could be encouraged to override 'safe third country' and dispersal policies and provide support for transnational networks and minority media. Failure to do so, has the potential to undermine the objectives of IHRL and IMRL, namely: the protection of human dignity; the preservation and continued existence of minority identities; and social stability and cohesion.

Consequently, UN treaty bodies must adopt an intersectional lens to ensure that the needs of individuals who are rendered particularly vulnerable by intersecting systems of oppression are fully addressed in their monitoring practice. While they have sought to do so at the intersection of gender, race and/or disability, the significance of intersectionality must be acknowledged beyond these categories moving forward. Otherwise, UN treaty bodies risk participating in the oppression of individuals located at unrecognised intersections and may even undermine the ability of IHRL to achieve its overarching objectives.